

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO. 572 OF 2005
IN
SECOND APPEAL NO. 339 OF 2005

Office Notes, Office Memoranda
of of Coram, appearances, Court's
orders and Registrar's orders : Court's or Judge's orders

Mr. N.J. Patil for the applicants.

Mr. T.S. Ingale for the respondent.

CORAM: P.V. KAKADE, J.

DATED: 23RD SEPT., 2005

P.C.:

1. Heard both sides.

2. This is an application for stay of the order passed by the lower Court pending the appeal and also with prayer that pending the appeal the respondent should not create any third party interest with regard to the property.

3. Perused the record including the affidavit in reply. The suit was filed for partition which was decreed and the appeal was dismissed. Admittedly, there are three properties involved, namely 1A, 1B and 1C. Admittedly again, property at 1C is sold by

the concerned parties. Again admittedly, property at 1B is in possession of respondent No.2 and property at 1A is the bone of contention. It is the case of the respondent that he is in possession of the said property exclusively, whereas the applicants are in joint possession of the said property with the respondent.

4. Ad-interim relief was granted and was directed that status-quo to be maintained between the parties pending the hearing of the application.

5. Now, the learned counsel for the respondent has brought to my notice the recent floods due to which the suit property No.1A got extensively damaged and, therefore, repairs thereof are emergent. Photographs of the dilapidated property were also shown to me and there is no dispute whatsoever that the property requires urgent repairs.

In view of this position, both parties are

directed to maintain status-quo with regard

to the suit property 1A. However, it is clarified that the respondent shall be entitled to get the property repaired so as to make it habitable.

With this direction, the application stands disposed of with no order as to costs.

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